

**Department of Health and Human Services
Guide For Conducting An Expedited Review
Competitive Sourcing Study
For Functions with 65 or Fewer FTE**

1.1 INTRODUCTION

The objective of this guide is to provide a process for studies involving 65 or fewer FTEs that will meet the requirements and intent of *OMB Circular Number A- 76 Revised Supplemental Handbook*, give fair consideration to Government employees, enable consistent implementation of the policy, and require minimal analytical effort. As a general rule, before initiating a study of a function involving 65 or fewer personnel, the organization should consider consolidating the study of the function with similar functions at other offices in the region, geographical area or with related functions at the same location. Such an approach offers two major benefits:

1. Economies of scale and opportunities for larger savings in the function and its associated overhead in the most efficient organization; and
2. Efficiencies in contract administration if the decision is to convert to contract.

On the other hand, no study of 65 or more FTEs should be modified in any way to be able to qualify as a 65 or Fewer Study. This is supported in the *OMB Circular Number A-76 Revised Supplemental Handbook*, Chapter 1, paragraph D.6, which states "In no case, shall any commercial activity be modified, reorganized, divided, or in any way changed for the purpose of circumventing the requirements of this . . . Supplement."

Recognizing that consolidation of smaller functions may not be feasible in all instances, the HHS Director of Competitive Sourcing has developed this guide to assist in performing cost comparison studies involving functions with 65 or fewer Government employees.

The Circular A- 76 Revised Supplemental Handbook (hereafter referred to as the Handbook) sets forth Government-wide principles and procedures for reviewing commercial activities to determine whether or not the function(s) should continue to be performed by Government employees or converted to contract or Interservice Support Agreement (ISSA) performance. The process outlined in the Handbook for studying a typical function requires extensive analysis and can last from 18 months for a single function study to 36 months for a multifunction study. From a business point of view, spending this much time and money to make a decision about a function involving a small number of work years and minimal costs would not be cost effective. This fact has been recognized in the Handbook and special provisions have been made to permit an alternate process when the number of employees being studied is not large and does not warrant an expensive time-consuming study. The process outlined in this guide is likely to require no more than 60 days from start to finish.

1.2 SMALL STUDY ALTERNATIVES

Two separate alternatives are outlined in the Handbook. The first is called the Streamlined Cost Comparison Process and can be used when the number of federal positions being studied is 65 FTE or fewer. Basically, it requires the Government to price its existing organization in accordance with the general rules of the larger studies and allows the Government to develop a range of estimated costs that one could reasonably expect prospective contractors to offer, without issuing a formal solicitation. This process assumes the activity being considered is regularly performed by contract and it requires the Government to base its in-house costs on the current organization. Documentation procedures and forms are included in the Handbook. This streamlined process saves time by reducing or eliminating much of the time required developing the Most Efficient Organization (MEO), Management Plan and Technical Proposal Plan. If the Government is judged to be the lower cost provider, it also saves the effort required to prepare the solicitation.

The second alternative can be applied if the function under study includes 10 FTEs or fewer. The Handbook states, "Commercial activities involving 10 or fewer FTEs may be performed by in-house, contract or Interservice Support Agreements (ISSAs) performance without cost comparison, if the contracting officer determines that offerors will provide required levels of service quality at fair and reasonable prices." No further guidance or suggested documentation is provided in the Handbook for this second alternative. Differing interpretations of this statement have resulted in inconsistent application of the policy.

1.3 STUDY PROCESS FOR 65 OR FEWER FTEs

This section of the guide outlines a five step process to perform the 65 and Fewer FTEs studies. This process may take as little as 40 to 80 hours of analytical effort, depending on the complexities of the functions under study and the relative ease of access to product and service workload and cost data and provides a means to compare commercial and in-house costs at a reasonable level of accuracy which meets the cost comparison process of the Handbook.

The HHS Deputy Assistant Secretary for Grants and Acquisition Management (DASGAM) or Operating division (OPDIV) designee will conduct and oversee these studies, and, as such, shall be assigned all responsibilities associated with the completion of all study activities. A contractor may be used to complete the study of an activity with 65 or fewer FTEs as long as the contractor is not a prospective bidder or subcontractor of the work. The contractor may accomplish such duties as the preparation of the requirements, documentation, and costs.

The first step in the process is to gather product and service workload requirements much like that required in developing a Performance Work Statement (PWS) in a full cost comparison. The purpose of this step is to define what the product or service is and how much of it is required.

The second step involves conducting a local market analysis (the cost of existing contracts may be used) to determine the commercial price and availability to provide the product or service. The step provides a suggested process for obtaining information on existing contracts (including

GSA/FSS) or, if not available, conducting interviews with local area suppliers.

The third step describes a process for estimating both the Government's cost and that of private industry to produce the product or service. This abbreviated cost method relies on assumptions contained in Chapter 5 of the Circular when describing 65 FTEs and fewer studies. Specifically, these assumptions are:

- Competition will focus largely on a labor and material basis,
- Significant capital asset purchases will not be required or equipment requirements will be Government Furnished/Contractor Operated, and
- The Government or private industry commonly contracts the function and reasonably grouped price comparisons are possible.

Finally, the cost comparison is performed by the DASGAM or OPDIV designee, using existing market costs to determine whether the function should stay in-house, be contracted or be performed by ISSA. This cost comparison should be approved by the affected HHS Program Director. The individuals responsible for the cost comparison will fully document every step of the cost comparison process to ensure accurate data is available for review. Before collecting costs, however, decision criteria should be developed for either retaining the function in-house or converting to contract or ISSA if the results of the cost comparison reveal there is no significant cost difference. The HHS or OPDIV Head of Contracting Activity will make these decisions. Then costs are collected/developed and a comparison is made.

Three outcomes are possible:

- If the comparison shows the estimated Government cost to be below the comparable range, the function should remain in-house.
- If the estimated Government cost is above the comparable range the function should be contracted.
- If the estimated Government cost falls within the comparable range, the decision to remain in-house or convert to contract is made by the OPDIV Head of Contracting Activity based upon the non-cost decision factors established earlier in this step.

1.4 STEP 1: Determine the Requirements

The first step of the process is to firmly establish what the product or service is and how much of it is required. This step is critical as properly defining the product or service is essential in order to obtain estimates of contract price, and quantities are essential in order to compare the private sector/ISSA cost to the in-house cost.

The product or service definition and requirements should be established by meeting with the program managers, employees, and customers of the service. During this meeting or meetings, the group should:

- Establish and list the products and services,
- Define the unit of performance (or standard) measurement (e.g., per square foot, per hour) that is used to determine volume of the product or service (contacting local commercial suppliers to determine how they price or measure is a supportable business practice),
- Determine what records (automated reports, workload, logs) will provide detail on the volume required per year, and
- Establish timelines and identify roles and responsibilities.

The DASGAM or OPDIV designee should obtain a final review and concurrence by the applicable program manager of all identified work products and service requirements. All data should be summarized by product or service and filed into a folder that references backup materials and provides an audit trail. Any performance objectives for improvements in the organization being studied may be documented for future improvements; however, no changes may be made to the current organization once this study process begins. The current organization is the basis for the cost of the "as is" organization. A Quality Assurance Surveillance Plan (QASP) is developed to track the work performance process whether the decision is to remain in-house or issue a contract.

1.5 STEP 2: Conduct a Local Market Review

NOTE: For activities involving 10 or fewer FTEs, any of the following procedures may be used. For activities involving between 11 and 65 FTEs only FEDERAL CONTRACTS or ISSAs (HHS, other agencies, or GSA) may be used for cost comparisons.

Conducting a market review of current or recently expired (within the previous six months) contracts/ISSAs in the local area will provide insight into the type of services available commercially. The review must be based on comparable wage rates within the locality being studied; however, if necessary, data from other comparable areas may be used with adjustments made based on established wage determinations. Any adjustments shall be thoroughly documented. The Handbook requires a minimum of no fewer than four comparable contracts or ISSAs to develop contract estimates for functions involving 11 or more FTEs. For Competitive Sourcing studies for functions with 10 and fewer FTEs, obtain a minimum of four private sector or ISSA suppliers after adjustments for A-76 costing. The review will provide essential costing information. This will aid in doing the cost comparison/analysis. There are two types of market reviews that can be performed:

- Collecting existing or recently expired contracts or ISSAs
- Interview local area suppliers

The best approach is to determine if there are any existing or expired contracts or ISSAs that provide the same or comparable types of products or services. Besides looking at HHS contracts, consider other governmental agencies, such as non-HHS federal agencies, quasi-federal agencies such as the Smithsonian, and State, County, and local governments. The

Contracting Officer is a key individual in this action and has the expertise to provide guidance and assistance in gathering this information. When reviewing the contracts and ISSAs, determine if the pricing is consistent with or can be converted to workload units defined in the first step.

All personnel involved in the collection and analysis of data for this process must exercise confidentiality throughout the process. Information is to be considered procurement sensitive and shall only be released on a “need to know” basis.

If existing or expired contracts or ISSAs are not available, document all sources investigated and meet with the Contracting Officer and functional personnel to identify potential commercial or other ISSA suppliers. Use a mileage radius that is within a reasonable business commuting distance so pricing information is representative of the area. As an alternative, if existing or recently expired contracts or ISSAs are available from another comparable area and reasonable wage adjustments can be made based on established wage determinations, these contracts/agreements are acceptable for the cost comparison. At this juncture, after all in-house (non-MEO) costs are sealed, the Contracting Officer may issue a "Sources Sought" synopsis (FAR 5.205 and 5.207(b)(4) cover A - 76 specifically) in the FedBizOpps if sources of potential suppliers are not readily apparent.

Some sources of information on commercial suppliers would be the newspapers, phone books, yellow pages, libraries, and the Internet. Regardless of the sources used, validate and document the process and basis for your choice of commercial suppliers who will be used as comparable suppliers of the services under study.

Once the potential sources have been chosen, conduct an interview with the private sector or ISSA source to gather facts. The interview can be via phone or in person. Prior to the interview process, a standard set of questions will be established and then applied uniformly by those conducting interviews. This will assure that all interviewees will be asked a standard set of questions. Determine who within the organization will be interviewed. Interviews with managers or supervisors are often the best approach. The following are examples of questions to ask the commercial sources or other ISSAs during the interview process:

- How is the product or service typically priced (e.g., square feet, per page, per pound, per hour)?
- Do you have a standard rate? If so, what is it and is it negotiable?
- How long have you been in business? (This question will assist in determining if the organization is reputable. A supplier that has been in business five years or more can be considered "established" in the community.)
- Can you provide reference information, e.g., experience in the type/volume of work requirements, and names/phone numbers and amount of dollars associated with the contract?

Additional questions that are specific to the study should be added.

Decision Factor: After conducting Steps 1 and 2, if the product or service is NOT available either from existing contracts or ISSAs or from inquiries initiated through the CBD, document the efforts and proceed to "Step 5: Announce Decision". If the product or service IS available, continue with "Step 3: Execute The Government's In-House Cost Analysis".

1.6 STEP 3: Execute the Government's In-House Cost Analysis

The costs associated with the performance of the in-house function need to be calculated. Conducting a streamlined cost analysis will assist in determining if the in-house function is competitive with or comparable to outside contractors or other ISSAs. The cost data to be collected is personnel costs, direct materials cost, direct overhead costs, and existing support contracts over \$500. The steps outlined below provide a guide to develop the simplified cost analysis.

1.6.1 In-House Personnel (Labor) Costs

Personnel costs are the costs for personnel to accomplish the requirements for the function. The current costs of all direct in-house labor and supervision that are necessary to perform the service or provide the product should be documented. According to the Handbook all federal positions will be costed using current pay rates based on the Government-wide representative rate of step 5 for General Schedule (GS) and step 4 for Federal Wage Salary (FWS) employees. Multiply that pay rate by the number of FTE, except for intermittent positions where actual hours are used. As a rule, GS salary is expressed as an annual rate of pay and the FWS salary is expressed as an hourly rate. See *Part II Chapter 2* of the Handbook for detailed guidance for developing the cost of Government performance.

The personnel costs in the cost analysis will include salaries, wages, and fringe benefits. Also, established OMB inflation factors for computing the Government's in-house personnel costs will be applied. Other entitlements such as shift differential for Federal Wage System employees, and other pay such as overtime, shift differential for GS employees, or Sunday premium pay should be included where applicable. The duration of the contract is a management decision but the normal time span is three to five years.

When applying the inflation factors, ensure current inflation factors are used. For additional costing information on personnel costs, refer to the Handbook, *Part II Chapter 2, Section B*.

The costs used in this cost comparison process for competitive sourcing cannot be used as the basis for actual budget allocations. Whether a decision is made to maintain the in-house workforce or to go direct to contract, the program manager must track the cost to perform the function for future studies.

1.6.2 In-House Material and Supply Costs

Material costs will be determined by obtaining historical records from the past year. Obtain any automated reports that indicate the cost of materials for the function. Obtain and record the sources of the material information for any future questions regarding the material costs. This does not include cost of equipment that will be provided for contractor use or in-house use regardless of the outcome of the study process.

1.6.3 In-House Overhead

Upon completing the calculations of the personnel and materials costs, the overhead costs will be applied. The overhead costs included two major categories: operations overhead and general and administrative overhead. Operations overhead is defined as those costs that are not 100 percent attributable to the activity under study, but are generally associated with the recurring management or support of the activity. General and administrative overhead includes salaries, equipment, space and other activities related to management, accounting, personnel, legal support, data processing management and similar common services performed outside the function, but in direct support of the function.

Apply the overhead rate of 12% of the labor costs as referenced in *Part II Chapter 2, Section E*, of the Handbook.

The next step is to estimate the contract/ISSA costs.

1.6.4 Contract/ISSA Costing

After completing the Market Review process, a comparable range of costs shall be established to use for the cost comparison. If there are current comparable contracts/ISSAs in place, use the bids for the estimated costs. If not, the rates, unit of measure and other information gathered from interviewing local suppliers will provide the necessary information to estimate the range of contract costs for the products and services.

1.6.5 Contract Administration Costs

If the function goes to contract/ISSA, the costs associated with administering the contract should also be calculated. The Handbook, *Part II Chapter 3, Section C* authorizes a half (0.5 man-year) administrative position for a 10 and Fewer Study. The personnel office can provide guidance for the classification for the authorized position based on duties and responsibilities appropriate to the function.

Upon conclusion of the above steps, in-house and contractor estimated costs have been captured. The next section will discuss the decision-making process.

1.7 STEP 4: Perform Cost Comparison

Formulation of decision factors will assist in establishing the criteria for determining the future provider of the function under study.

At this point all of the in-house estimated costs have been calculated. The contract/ISSA estimated costs should be arrayed into a comparable range. Adjustments for differences in scope may be necessary. The minimum conversion differential of 10% will be calculated and subtracted from the in-house cost estimate.

Decision Factor: If the in-house costs fall below the comparable range of private sector or ISSA source costs the function should remain in-house.

Decision Factor: If the in-house costs fall above the comparable range of private sector or ISSA source costs the function should be converted to contract/ISSA.

If the in-house costs fall within the comparable range, the answers to the following questions should be the basis for determining between keeping the function in-house or going outside via contract or ISSA.

Has the in-house function historically provided quality service or a quality product to its customers?

Decision Factor: If the in-house function consistently provided a quality product or service to the customers, then consideration should be made to keep the function in-house.

Has the in-house function historically had problems maintaining personnel?

Decision Factor: If the in-house function has a rather frequent turnover of employees, or the quality of the product/service provided has been poor, consider contracting the function.

Has the in-house function historically had problems providing the service or product?

Decision Factor: If the service or product is not efficiently being provided to the customer, consider contracting the function.

1.8 STEP 5: Announce Decision

The Director of Operations announces the decision to remain in-house or to award a contract/ISSA. If the decision is to convert to contract or ISSA, the solicitation process as it pertains to commercial activity studies is started. If the decision is to use an ISSA, the Memorandum of Understanding (MOU) or Memorandum of Agreement (MOA) implementing the ISSA will be completed as appropriate.

The FAR requires that the Right of First Refusal of Employment clause be included in the solicitation. This also applies to a 65 and Fewer Study which is performed by federal employees or existing federal support contract employees who are adversely affected by a study being converted to contract or ISSA performance.

1.9 Summary of Expedited Review

Upon the completion of the 65 and Fewer Study process, HHS will be able to formulate an informed decision about a function remaining in-house or going outside via contract or ISSA. If a Request for Proposals (RFP) is issued and the results of the RFP show costs more than 10% of the in-house actual cost, the Government reserves the right to cancel the solicitation and continue in-house performance.

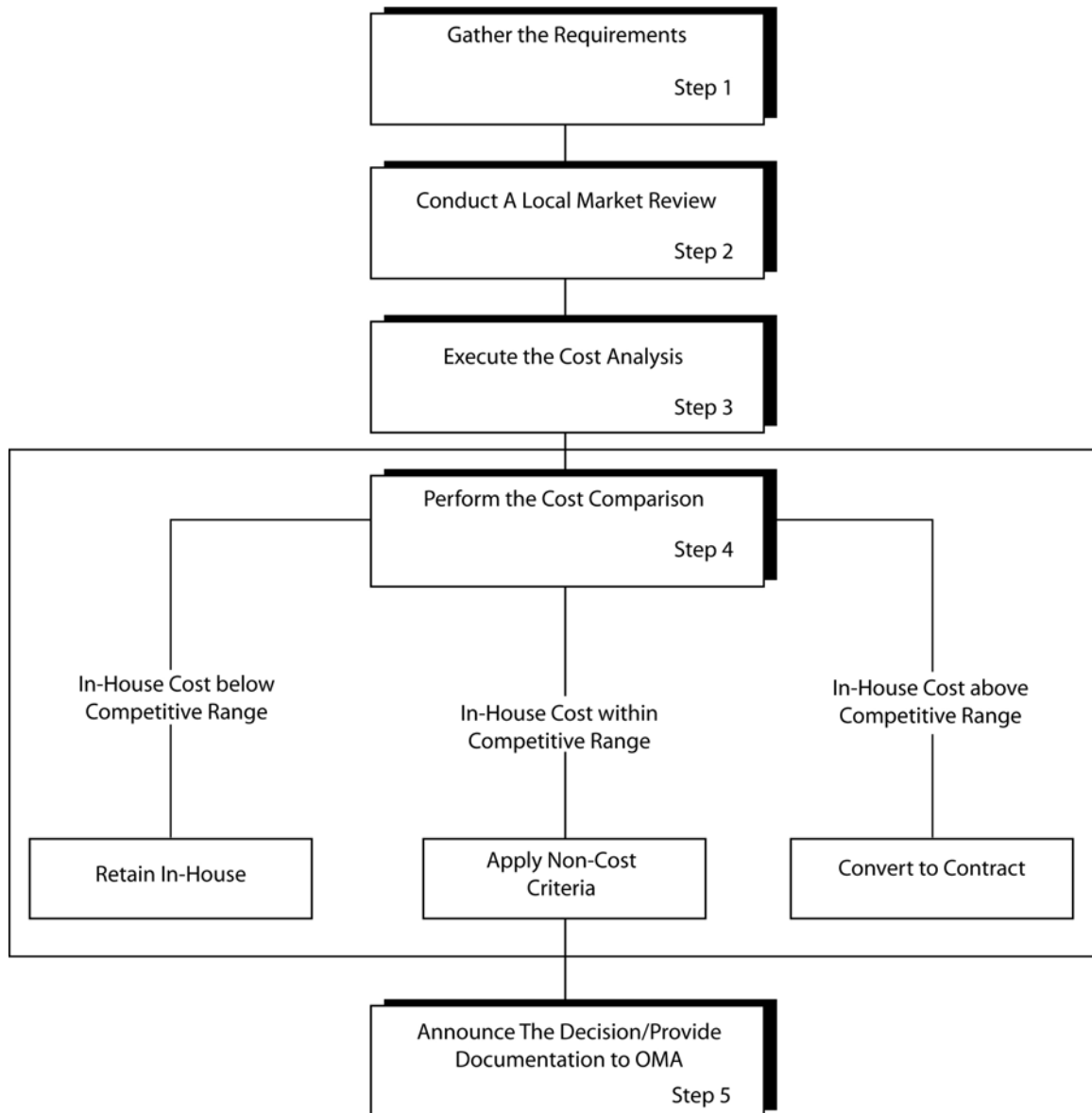
1.10 Possible Follow on Actions

In the event of a decision to award a contract/ISSA, relevant managers must consult with their Personnel Office to obtain assistance on placement alternatives available to all employees. Alternatives such as early outs, buyouts, reassignments, modified qualifications with training, hiring freezes, attrition, and selective appointments (temps, terms) to retain future flexibility may help managers deal with employee placement.

ACKNOWLEDGMENT

This document is a version of the Department of the Interior (DOI) Guide for Conducting an Express Review which has been edited to reflect the organizational structure of the HHS. The Deputy Assistant Secretary for Grants and Acquisition Management acknowledges the groundbreaking effort of the staff responsible for preparing the DOI Guide. The HHS Guide makes no changes to the procedures developed by the DOI and, by so doing, further attests to the quality of the source document.

Exempt Review Process



SIMPLIFIED COST COMPARISON FOR AN EXEMPT REVIEW
TEMPLATE

IN-HOUSE PERFORMANCE	IN-HOUSE	COMMERCIAL/ISSA ESTIMATES		
		[Name]	[Name]	[Name]
Personnel				
Material				
Overhead - 12%				
Total				
CONTRACT OR ISSA PERFORMANCE				
Contract or ISSA Price				
Contract Administration				
Total Contract and/or ISSA				
Cost Comparison				
DECISION FACTORS (Check One)				
Government Estimate Below Competitive Range	Keep In-House			
Government Estimate Above Competitive Range	Convert To Contract/ISSA			
Government Estimate Within Competitive Range	Management Decision			